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Jury Finds Daughters Used 'Undue Influence' Over Father in \$3M Estate Fight

After a three-week trial, the jury ruled that the daughters of an elderly man with diminished mental capacity isolated him from their brother and used their influence to disinherit their sibling.

By [Greg Land \(/author/profile/Greg-Land/\)](http://author/profile/Greg-Land/) | June 26, 2019 at 02:40 PM

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F. Skip Sugarman (left) and Matthew Greer Hawk of Sugarman Law. (Courtesy photos)

A three-week trial involving a contentious family dispute over allegations that an ailing man's daughters conspired to cut their brother out of a will and trusts worth millions of dollars ended with a jury finding the sisters exercised "undue influence" over their now-deceased father.

The jury form did not award any specific money damages, but lead plaintiff's lawyer F. Skip Sugarman said the [verdict](http://images.law.com/contrib/content/uploads/documents/404/32789/Slosberg-) [\(https://images.law.com/contrib/content/uploads/documents/404/32789/Slosberg-](http://images.law.com/contrib/content/uploads/documents/404/32789/Slosberg-)

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[Verdict-Form-.pdf](#)) will allow his client to claim one-third of a trust and two bank accounts that, along with the father's will, comprise an estate valued at about \$3 million.

"There's also a will, but that wasn't part of this case, because a will is purely a Probate Court issue," said Sugarman. "We'll take this verdict and ask the court to void the will."

"At the end of the day, my client's portion should be around \$1 million," said Sugarman, who handled the trial with [Sugarman Law \(http://www.sugarman-law.com/\)](http://www.sugarman-law.com/) colleague Matthew Hawk.

The bitter family dispute has percolated for more than six years and included a trip to the state Court of Appeals, which reversed a summary judgment ruling in the sisters' favor and sent the case back to Fulton County Superior Court.

Sugarman said his client, Robert Slosberg, was eager to put the case to rest, but the lawyer seemed doubtful.

"I don't know," he said. "There's been so much litigation around this case, I hope we can just put all this behind us."

Lead defense counsel Tyler Dixon of [Raiford Dixon \(https://www.raiforddixonlaw.com/\)](https://www.raiforddixonlaw.com/) indicated that his clients were not ready to call a truce.

"In our view, the verdict is something of a two-edged sword for both sides," said Dixon, who represents Slosberg's sisters Suzanne Giller and Lynne Seider.

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"While I do not prefer to comment on pending litigation, we do anticipate an appeal, motion for new trial and/or motion for [judgment notwithstanding the verdict]," said Dixon, who worked alongside Atlanta solo Janet Litt.

According to Sugarman and court [filings \(https://images.law.com/contrib/content/uploads/documents/404/32789/Slosberg-CPTO.pdf\)](https://images.law.com/contrib/content/uploads/documents/404/32789/Slosberg-CPTO.pdf), Slosberg's parents set up a trust in 2005 containing the majority of their assets, named all three children and their families as beneficiaries and appointed Slosberg attorney-in-fact.

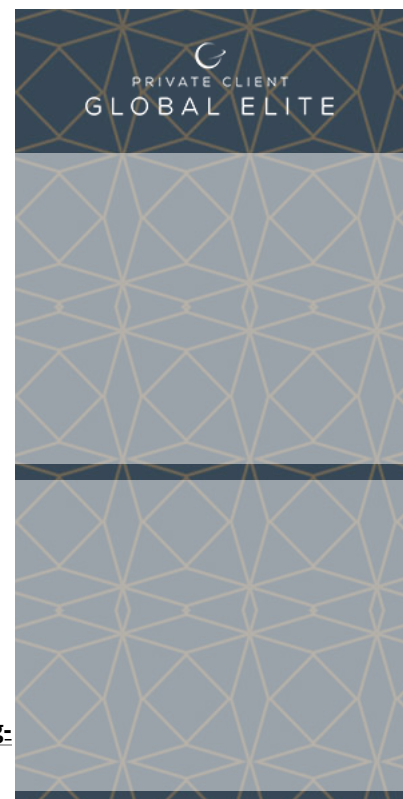
Their mother died in 2007, and in 2011 the father, Davis Slosberg, underwent major surgery and spent some time in transitional care before returning home, where he

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lived with full-time assistance.

According to Slosberg's account, his father "experienced complications from surgery which significantly contributed to his mental and physical deterioration."

The defense account, however, said David Slosberg remained alert and became increasingly annoyed by his son's efforts to maintain control of his affairs.

The siblings disagreed over their father's care, and the sisters' version of events said David Slosberg indicated that he didn't want to see his son.

The father was diagnosed with mild to medium cognitive impairment in 2012 and was later prescribed the Exelon Patch, which is used to treat dementia.

The sisters hired a lawyer to draw up a new power of attorney in 2013 naming them attorneys-in-fact, which their father signed. Seidner and Giller refused to allow Slosberg to see their father, according to plaintiff's filings and at one point had him arrested and jailed for assault. Those charges were later dropped.

David Slosberg died in 2014.

Robert Slosberg sued his sisters in Fulton County Superior Court for claims including fraud, constructive trust, undue influence and malicious prosecution, and sought an injunction prohibiting them from withdrawing any funds from two bank accounts and the trust.

Giller and Seidner filed counterclaims against Slosberg including defamation, tortious interference, declaratory judgment and equitable relief.

In 2016, now-retired Judge Wendy Shoob granted summary judgment to the sisters as to the enforceability of the documents their father had signed, finding "no evidence of mental incapacity" on his part or that he was "under any undue influence" when he signed them.

Shoob also granted Slosberg summary judgment on his sisters' counterclaims for tortious interference and defamation.

The Georgia Court of Appeals **reversed** (<https://images.law.com/contrib/content/uploads/documents/404/32789/GCOA-Slosberg-v.-Giller.pdf>) Shoob's dismissal of Slosberg's claims, writing there was "evidence to show that the father was suffering from memory impairment, mental confusion, and susceptibility to influence in the months leading up to the time he executed the documents at issue."

There was also evidence, the opinion said, "that Giller and Seidner made at least some efforts to control the father, isolated him from Slosberg" and "took actions on behalf of the father that he did not authorize or understand, and that the father made statements to certain witnesses indicating that he felt like he was being brainwashed."

The appellate panel also reversed part of the sisters' counterclaims for tortious interference, writing that, because "the validity and enforceability of the father's changes to his IRA and trust accounts have yet to be determined by the trier of fact, summary judgment as to these tortious interference claims was improper."

Sugarman said there was never any effort to mediate or settle the dispute.

"This is one of those cases where there are two versions of the facts, and they are irreconcilable," he said. "It had to be tried."

The case went to trial June 3 before Judge Eric Dunaway.

Sugarman said that, in addition to the family members, witnesses included former lawyers, advisers and caregivers for the parties' deceased father and a plethora of exhibits and documents.

"The most important thing from our perspective were voice recordings of the decedent," he said. "The defendants spent years saying the decedent did not want to see my client; we had hours and hours of voice recordings that showed otherwise."

On June 20, Sugarman said the jury took a few hours to return its verdict, "but it took two hours just to assemble all the exhibits," he said. "This was the most challenging presentation I've ever had to put together."

In conversation afterward, he said the jurors "seemed very pleased with the presentation we made."

Sugarman said that, despite the highly charged claims, the defense counsel was cordial and professional.

"There had been other lawyers involved in the underlying facts that did not include my opposing counsel, Mr. Dixon," he said. "I would submit that, with a three-week trial for such a contentious case, we got along very well; they were very professional."

Dixon, in turn, said Sugarman "did a heckuva job."

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